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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 161118999-7008-01]

RIN 0648-BG46

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 28

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement measures included in Framework Adjustment 28 to the Atlantic Sea Scallop Fishery Management Plan, which the New England Fishery Management Council adopted and submitted to NMFS for approval. The purpose of Framework 28 is to prevent overfishing, improve yield-per-recruit, and improve the overall management of the Atlantic sea scallop fishery. Framework 28 would: set specifications for the scallop fishery for fishing year 2017; revise the way we allocate catch to the limited access general category individual fishing quota fleet to reflect spatial management of the scallop fishery; and implement a 50-bushel shell stock possession limit for limited access vessels inshore of the days-at-sea demarcation line north of 42° 20' N. lat.

DATES: Comments must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The Council has prepared a draft environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives and analyzes of the impacts of the proposed measures and alternatives. The Council submitted a decision draft of the framework to NMFS that includes the draft EA, a description of the Council’s preferred alternatives, the Council’s rationale for selecting each alternative, and an Initial Regulatory Flexibility Analysis (IRFA). Copies of the decision draft of the framework, the draft EA, and the IRFA, are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

You may submit comments on this document, identified by NOAA-NMFS-2016-0155, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0155*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Scallop Framework 28 Proposed Rule.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted

voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978-281-9233.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery's management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Scallop Fishery Management Plan (FMP), established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery's management. The Council sets scallop fishery specifications through specification or framework adjustments that occur annually or biennially. The Council adopted Framework 28 on November 17, 2016, and submitted the framework and draft EA to NMFS on December 21, 2016, for review and approval. This action includes catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2017.

Framework 28 specifies measures for fishing year 2017, and includes default fishing year 2018 measures that will go into place should the next specifications-setting action be delayed beyond the start of fishing year 2018. NMFS will implement Framework 28, if approved, after the start of fishing year 2017; 2017 default allocation measures will go into place on March 1, 2017. The Council has reviewed the Framework 28 proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), Annual Projected Landings (APLs) and Set-Asides for the 2017 Fishing Year and Default Specifications for Fishing Year 2018

The Council set the proposed OFL based on a fishing mortality rate (F) of 0.48, equivalent to the overfishing F threshold updated through the 2014 assessment. The Council's Scientific and Statistical Committee recommended a scallop fishery ABC for the 2017 and 2018 fishing years of 103 million lb (46,737 mt) and 95 million lb (43,142 mt), respectively, after accounting for discards and incidental mortality. The Council based the proposed ABC and the equivalent total ACL for each fishing year on an F of 0.38, which is the F associated with a 25-percent probability of exceeding the OFL. The Scientific and Statistical Committee will reevaluate an ABC for 2018 when the Council develops the next framework adjustment in 2017.

Table 1 outlines the proposed scallop fishery catch limits. After deducting the incidental target total allowable catch (TAC), the research set-aside (RSA), and the observer set-aside, the remaining ACL available to the fishery is allocated according to the following fleet proportions established in Amendment 11 to the FMP (72 FR 20090; April 14, 2008): 94.5 percent allocated to the limited access scallop fleet (i.e., the larger "trip boat" fleet); 5 percent allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (i.e., the smaller "day boat" fleet); and the remaining 0.5 percent allocated to limited access scallop vessels that also have LAGC IFQ permits. Amendment 15 to the FMP (76 FR 43746; July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC ACLs, meaning that the LAGC ACL would equal the LAGC ACT. To help ensure that allocation of potential catch to the LAGC IFQ fleet is more consistent with allocations to the

limited access fleet and the concept of spatial management, this action proposes to distinguish the ACL from APL in setting allocations (for DAS, trip allocations, and IFQs) for each fleet, as shown in Table 1. The purpose and basis for this change, affecting the LAGC IFQ fleets mainly, is described in more detail in “*LAGC Measures*” section below. For the limited access fleet, the management uncertainty buffer is based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which, using the updated Fs applied to the ABC/ACL, now results in an F of 0.34.

Table 1. Scallop Catch Limits (mt) for fishing years 2017 and 2018 for the limited access and LAGC IFQ fleets.

Catch limits	2017 (mt)	2018 (mt)*
Overfishing Limit	75,485	69,678
Acceptable Biological Catch/ACL (discards removed)	46,737	43,142
Incidental Catch	23	23
Research Set-Aside (RSA)	567	567
Observer Set-Aside	467	431
ACL for fishery	45,680	42,121
Limited Access ACL	43,167	39,804
LAGC Total ACL	2,512	2,317
LAGC IFQ ACL (5% of ACL)	2,284	2,106
Limited Access with LAGC IFQ ACL (0.5% of ACL)	228	211
Limited Access ACT	38,623	35,614
APL	20,516	*
Limited Access Projected Landings (94.5% of APL)	19,388	*
Total IFQ Annual Allocation (5.5% of APL)	1,129	846**
LAGC IFQ Annual Allocation (5% of APL)	1,026	769**

Limited Access with LAGC IFQ Annual Allocation (0.5% of APL)	103	77**
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**The catch limits for the 2018 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2018 that will be based on the 2017 annual scallop surveys.*

***As a precautionary measure, the 2018 IFQ annual allocations are set at 75% of the 2017 IFQ Annual Allocations.*

This action would deduct 1.25 million lb (567 mt) of scallops annually for 2017 and 2018 from the ABC and set it aside as the Scallop RSA to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA projects. As of March 1, 2017, this set-aside would be available for harvest by RSA-funded projects in open areas. Framework 28 would allow RSA to be harvested from the Mid-Atlantic Access Area (MAAA) once this action is approved and implemented, but would prevent RSA harvesting from access areas under 2018 default measures. Of this 1.25 million lb (567 mt) allocation, NMFS has already allocated 63,204 lb (28.7 mt) to previously-funded multi-year projects as part of the 2016 RSA awards process. NMFS is reviewing proposals submitted for consideration of 2017 RSA awards and will be selecting projects for funding in the near future.

This action would also set aside 1 percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-asides for fishing years 2017 and 2018 are 467 mt and 431 mt, respectively. The Council may adjust the 2018 observer set-aside when it develops specific, non-default measures for 2018.

Open Area Days-at-Sea (DAS) Allocations

This action would implement vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (i.e., full-time, part-time, and occasional) for 2017

and 2018 (Table 2). Proposed 2017 DAS allocations are lower than those allocated to the LA fleet in 2016 (34.55 DAS for full-time, 13.82 DAS for part-time, and 2.88 DAS for occasional vessels). Framework 28 would set 2018 DAS allocations at 75 percent of fishing year 2017 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2018 specifications action, if delayed past the start of the 2018 fishing year, estimates that DAS should be less than currently projected. The proposed allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeded its 2016 sub-ACL. In addition, these DAS values take into account a 0.14-DAS reduction necessary to compensate for a measure implemented in Framework Adjustment 26 to the FMP (80 FR 22119; April 21, 2015) that allows vessels to transit to ports south of 39° N. lat. while not on DAS. The proposed DAS also include a 4.7 percent increase because the 2017 fishing year will be 13 months long to account for the change in the start of the fishing year (from March 1 to April 1) implemented through Amendment 19 to the Scallop FMP (81 FR 76516; November 3, 2016).

Table 2. Scallop Open Area DAS Allocations for 2017 and 2018.

Permit Category	2017	2018 (Default)
Full-Time	30.41	21.75
Part-Time	12.16	8.69
Occasional	2.54	1.91

Because NMFS is likely to implement Framework 28, if approved, after March 1, 2017, full-time, part-time, and occasional vessels will receive 34.55, 13.82, and 2.88 DAS,

respectively, on March 1, 2017, as default allocations. These allocations would be reduced as soon as we implement Framework 28, if approved.

Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

For fishing year 2017 and the start of 2018, Framework 28 would keep the MAAA open as an access area and would also open the Nantucket Lightship Access Area (NLS) and Closed Area 2 Access Area (CA2). Closed Area 1 would remain closed. In addition, this action proposes to open the Elephant Trunk Closed Area and allow full-time vessels to choose to fish up to 18,000 lb (8,165 kg) of their 36,000-lb (16,330 kg) MAAA-allocation in this area. Because of the flexible trip option for the Elephant Trunk area, this action proposes to rename the area Elephant Trunk Flex Access Area (ETFA) for 2017. The Council approved this flexible trip option to reduce the fishing pressure on both the MAAA and the ETFA and to protect small scallops in the ETFA while still providing the option to fish in the area. There are sections of the ETFA where there is a mix of harvestable scallops and small scallops. Framework 28 also proposes a seasonal closure of the ETFA, from July 1 through September 30, to help reduce the discard mortality of small scallops during the warmest months of the year.

Table 3 proposes the limited access full-time allocations for all of the access areas, which could be taken in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 3) on each trip.

Table 3. Proposed Scallop Access Area Full-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2016 and 2017.

Rotational Access Area	Possession Limits	2017 Allocation	2018 Allocation (Default)
CA2	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	-

NLS	18,000 lb (8,165 kg)	-
MAAA	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)
ETFA	18,000 lb (8,165 kg)*	No flex option
Total	72,000 lb (32,660 kg)	18,000 lb (8,165 kg)

* ETFA allocation can be landed from either the ETFA or the MAAA.

For the 2017 fishing year only, a part-time limited access vessel would be allocated a total of 28,800 lb (13,064 kg) with a trip possession limit of 14,400 lb per trip (6,532 kg per trip). Of the 28,800-lb (13,064-kg) allocation, 14,400 lb (6,532 kg) would be allocated exclusively to the MAAA. The remaining 14,400 lb (6,532 kg) could be harvested and landed either from the MAAA or any one other available access area, (CA2, NLS, or ETFA). However, if a vessel chooses to harvest and land the remaining 14,400 lb (6,532 kg) from the ETFA and does not harvest up to the full allocation on a trip, it would only be allowed to land the remaining pounds either from the ETFA or the MAAA. For the 2018 fishing year, part-time limited access vessels would be allocated 14,400 lb (6,532 kg) in the MAAA only with a trip possession limit of 14,400 lb per trip (6,532 kg per trip).

For the 2017 fishing year only, an occasional limited access vessel would be allocated 6,000 lb (2,722 kg) with a trip possession limit of 6,000 lb per trip (2,722 kg per trip). Occasional vessels would be able to harvest 6,000 lb (2,722 kg) allocation from only one available access area (CA2, NLS, MAAA, or ETFA). For the 2018 fishing year, occasional limited access vessels would be allocated 6,000 lb (2,722 kg) in the MAAA only with a trip possession limit of 6,000 lb per trip (2,722 kg per trip).

Limited access vessels' one-for-one area access allocation exchanges

Framework 26 changed the way we allocate access area effort to the limited access fleet from trip allocations (2 trips with an 18,000-lb (8,165-kg) possession limit in an area) to landings allocations (36,000 lb (16,330 kg) of landings with an 18,000-lb (8,165-kg) possession limit in an area). However, Framework 26 did not address trip exchanges because it only opened a single access area. This action clarifies that the owner of a vessel issued a limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another Scallop Access Area. These exchanges may only be made for the amount of the current trip possession limit (18,000-lb (8,165-kg)). In addition, these exchanges would be made only between vessels with the same permit category: A full-time vessel may not exchange allocations with a part-time vessel, and vice versa.

In fishing year 2017, each limited access full-time vessel would be allocated 18,000 lb (8,165 kg) that may be landed from either the ETFA or the MAAA (flex allocation). Such flex allocation could be exchanged in full only for another access area allocation, but only the flex allocation could be landed from the ETFA. For example, if a Vessel A exchanges 18,000 lb (8,165 kg) of flex allocation for 18,000 lb (8,165 kg) of MAAA allocation with Vessel B, Vessel A would no longer be allowed to land allocation from the ETFA based on its MAAA allocation, but Vessel B could land up to 36,000 lb (16,330 kg) from the ETFA and/or the MAAA, combined.

Prohibition on possessing greater than 50 bushels of shell stock for limited access vessels inshore of the DAS demarcation line north of 42° 20' N. lat.

This action proposes a 50-bushel shell stock possession limit inshore of the DAS demarcation line for limited access vessels fishing north of 42° 20' N. lat. Framework Adjustment 14 to the Scallop FMP (66 FR 21639; April 26, 2001) implemented a 50-bushel possession limit for shell stock south of 42° 20' N. lat. for limited access vessels inshore of the DAS demarcation line. This action would extend the restriction to all Federal waters for limited access vessels. This possession limit is intended to prevent limited access vessels from shucking scallops off the DAS clock. Vessels fishing exclusively north of 42° 20' N. lat. were exempt from this possession limit to allow a limited fishery to continue by some vessels that traditionally landed in-shell scallops in this area. Since Framework 14, there has been very little limited access effort north of 42° 20' N. lat. However, in the spring of 2016, there was a sharp increase in limited access activity in this area. During this increase in activity there were reports of vessels possessing greater than 50 bushels of shell stock inside of the VMS demarcation line for the purpose of shucking scallops off the DAS clock. This is a conservation and management concern because DAS allocations are set using landings per unit effort (LPUE). The LPUE calculation assumes that vessels are shucking scallops on the DAS clock. Given the recent increase in limited access effort in this area, this action proposes to extend the 50-bushel possession limit for shell stock for limited access vessels to all Federal waters.

LAGC Measures

1. *LAGC IFQ Fleet Allocation Based on Spatial Management.* This action would change the way the LAGC IFQ allocations would be set from a direct percentage of the ACL to a percentage of the APL. The purpose of this change is to help ensure that the allocation of potential catch between the fleets is more consistent with the concept of spatial management by

allocating catch to the LAGC IFQ fleet based on harvestable scallops instead of total biomass. Amendment 11 to the Scallop FMP (73 FR 20089; April 14, 2008) split the total scallop catch between the limited access and LAGC IFQ fleets (94.5 percent to the limited access fleet and 5.5 percent to the LAGC IFQ fleet). Using the current method of determining catch for each fleet, however, the LAGC IFQ fleet would effectively be allocated about 11.4 percent of total projected landings. The reason for this allocation is that, currently, ACLs in the scallop fishery are based on the overall biomass of scallops, while projected landings are limited to the harvestable scallop biomass in areas that are open to the fishery in a given year (i.e., harvestable scallops only in the open area and open access areas). Since Amendment 15 to the Scallop FMP (76 FR 43746; July 21, 2011), the LAGC IFQ allocation (sub-ACL) has been equal to 5.5 percent of the ACL (5 percent for LAGC IFQ vessels and 0.5 percent for LAGC IFQ vessels that also have a limited access scallop permit), while the limited access allocation has been based on projected landings for the fishing year, taking into account only the scallops available to the fishery. The allocation of 94.5 percent of the scallop ACL for the limited access fleet served as a threshold that, if exceeded, would trigger accountability measures for the limited access fleet. As a result of the difference in allocation, the allocation to the limited access fleet is spatially explicit, while the LAGC IFQ allocation is not. In recent years, due to increasing biomass in closed areas included in ACL calculations, projected landings (excluding biomass in closed areas) have been substantially less than ACL. Since the LAGC IFQ fleets' allocations are based on the stock-wide ACL, the fleets have been allocated an increasing percentage of projected landings (greater than 5.5 percent).

Allocating the LAGC IFQ fleets' catch based on projected catch also has less potential to cause harm to the scallop biomass where these vessels fish. LAGC IFQ fleets are constrained by the available access areas and open areas defined in the Scallop FMP because regulations confine the fleets generally to nearshore dredge exemption areas. In addition, because of the size of the vessels in the LAGC IFQ fleet, and the 600-lb (272.2-kg) trip limit, harvest is more concentrated in near-shore areas. With an allocation based on stockwide ACL (including closed areas), the vessels could catch more scallops in the areas where the vessels are confined to than the areas might be able to handle biologically. Allocation based on projected landings of scallops available through area rotation reduces this risk.

Choosing to allocate based on 5.5 percent of the projected catch would result in an approximate 45 percent cut in the allocation from the current method of allocation (status quo) for 2017 (2.49 million lb (1,129 mt) based on projected catch compared to 5.5 million lb (2,512 mt) based on stock-wide ACL). The Council supported this measure, despite this large cut in the allocation, because the concept of spatial management for the LAGC IFQ fishery has support across both the limited access and the LAGC IFQ fleets and because it reduces the risk of LAGC IFQ allocations resulting in higher realized F rates in certain areas than predicted in the model. The Council felt that the intent of Amendment 11 was to limit the LAGC IFQ fleet harvest to 5.5 percent of the actual landings, not 5.5 percent of the ACL.

2. *ACL and IFQ allocation for LAGC vessels with IFQ permits.* For LAGC vessels with IFQ permits, this action implements a 2,284-mt ACL for 2017 and a default ACL of 2,106 mt for 2018 (see Table 1). These sub-ACLs have no associated regulatory or management requirements, but provide a ceiling on overall landings by the LAGC IFQ fleets. The annual

allocation to the LAGC IFQ-only fleet for fishing years 2017 and 2018 based on APL would be 1,026 mt and 769 mt, respectively (see Table 1). The 2017 allocation includes a 4.7-percent increase because the 2017 fishing year will be 13 months long to account for the change in the start of the fishing year (from March 1 to April 1) implemented through Amendment 19 to the Scallop FMP.

Because Framework 28 is likely to go into effect after the March 1 start of fishing year 2017, the default 2017 IFQ allocations will go into place automatically on March 1, 2017. This action implements IFQ allocations that are less than the default allocations. NMFS will send a letter to IFQ permit holders providing both default March 1, 2017, IFQ allocations and Framework 28 IFQ allocations so that vessel owners know what mid-year adjustments would occur should Framework 28 be approved.

3. ACL and IFQ allocation for Limited Access Scallop Vessels with IFQ Permits. For limited access scallop vessels with IFQ permits, this action implements a 228-mt ACL for 2017 and a default 211-mt ACL for 2018(see Table 1). As explained above, this action would change the way the Council and NMFS calculate IFQ allocations by applying each vessel's IFQ contribution percentage to this fleet's percentage (i.e., 0.5 percent) of the projected landings. The annual allocation to limited access vessels with IFQ permits for fishing years 2017 and 2018 would be 103 mt and 77 mt, respectively (see Table 1). The 2017 allocation includes a 4.7 percent increase because the 2017 fishing year will be 13 months long to account for the change in the start of the fishing year (from March 1 to April 1) implemented through Amendment 19 to the Scallop FMP.

4. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 28 would allocate LAGC IFQ vessels a fleetwide number of trips in the NLS, MAAA, and ETFA for fishing year 2017 and default fishing year 2018 trips in the MAAA (see Table 4). The total number of trips for both areas combined (2,230) for fishing year 2017 is equivalent to the 5.5 percent of total catch from access areas. This action would not allocate any LAGC IFQ trips into CA2 because many of these vessels do not fish in that area due to its distance from shore. Because the IFQ vessels would not be able to access CA2, the Council proposes in Framework 28 to shift those trips that would have been allocated to CA2 to other access areas closer to shore, so that LAGC IFQ vessels would have the opportunity to utilize their access area trips. This action would allocate 558 trips that would have been allocated to CA2 into NLS (279 trips), MAAA (139), and ETFA (139).

Table 4. LAGC IFQ Trip Allocations for Scallop Access Areas.

Access Area	2017	2018 (<i>Default</i>)
NLS	836	-
MAAA	697	558
ETFA	697	-
Total	2,230	558

5. *Northern Gulf of Maine (NGOM) TAC.* This action proposes a 95,000-lb (43,091 kg) annual NGOM TAC for fishing years 2017 and 2018. During the 2016 fishing year there was a 21,629-lb (9,811-kg) overage of the NGOM TAC. This triggers a pound-for-pound deduction in

2017 to account for the overage. Therefore, the 2017 NGOM TAC would be 73,371 lb (33,281 kg) to account for the overage.

6. *Scallop Incidental Catch Target TAC.* This action proposes a 50,000-lb (22,680-kg) scallop incidental catch target TAC for fishing years 2017 and 2018 to account for mortality from this component of the fishery, and to ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

RSA Harvest Restrictions.

This action proposes that vessels participating in RSA projects would be prohibited from harvesting RSA compensation from CA2, NLS, and ETFA during the 2017 fishing year to control F, reduce impacts on flatfish, and reduce impacts on high densities of scallops with growth potential. Further, this action proposes to prohibit the harvest of RSA compensation from the NGOM to control the F in the area. During the 2017 fishing year, all RSA compensation fishing must take place in either the open area, excluding the NGOM, or the MAAA. In addition, Framework 28 would prohibit the harvest of RSA from any access areas under default 2018 measures. At the start of 2018, RSA compensation could only be harvested from open areas. The Council would re-evaluate this measure in the action that would set final 2018 specifications.

Regulatory Corrections Under Regional Administrator Authority

This proposed rule includes a revision to the regulatory text to address a typographical error in the regulations. NMFS proposes this change consistent with section 305(d) of the MSA which provides that the Secretary of Commerce may promulgate regulations necessary to ensure

that amendments to an FMP are carried out in accordance with the FMP and the MSA. This revision corrects the error at § 648.14(i)(4)(i)(G).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Steven Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Steven Act, and other applicable law. In making the final determination, NMFS will consider the data, views, and comments received during the public comment period.

This proposed rule does not contain policies with federalism implications under Executive Order 13132.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA has been prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA consists of Framework 28 analyses, the draft IRFA, and the preamble to this proposed rule.

Description of the Reasons Why Action by the Agency is Being Considered and Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for 2017, with 2018 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 28 and the preamble of this proposed rule and are not repeated here.

Description of Projected Reporting, Recordkeeping, and other Compliance Requirements of the Proposed Rule

This action contains no new collection-of-information, reporting, or recordkeeping requirements.

Federal Rules which may Duplicate, Overlap or Conflict with this Proposed Rule

The proposed regulations do not create overlapping regulations with any state regulations or other federal laws.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed regulations would affect all vessels with limited access and LAGC scallop permits. Framework 28 provides extensive information on the number and size of vessels and small businesses that would be affected by the proposed regulations, by port and state (see **ADDRESSES**). Fishing year 2015 data were used for this analysis because these data are the most recent complete data set for a fishing year. There were 313 vessels that obtained full-time limited access permits in 2015, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits. NMFS issued 217 LAGC IFQ permits in 2015, and 119 of these vessels actively fished for scallops that year. The remaining permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History.

The RFA defines a small business in shellfish fishery as a firm that is independently owned and operated with receipts of less than \$11 million annually (see NMFS final rule revising the small business size standard for commercial fishing, 80 FR 81194, December 29,

2015). Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those impacted by the proposed action. Furthermore, multiple permitted vessels and/or permits may be owned by entities with various personal and business affiliations. For the purposes of this analysis, “ownership entities” are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an “ownership entity.” For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one “ownership entity,” that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate “ownership entity” for the purpose of this analysis.

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership dataset is based on the calendar year 2015 permits and contains average gross sales associated with those permits for calendar years 2013 through 2015. Matching the potentially impacted 2015 fishing year permits described above (limited access and LAGC IFQ) to calendar year 2015 ownership data results in 154 distinct ownership entities for the limited access fleet and 87 distinct ownership entities for the LAGC IFQ fleet. Of these, and based on the Small Business Administration guidelines, 141 of the limited access distinct ownership entities and 84 of the LAGC IFQ entities are categorized as small. The remaining 13 of the limited access and 3 of the LAGC IFQ entities are categorized as large entities, all of which are shellfish businesses.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

Framework 28 has several specification alternatives with different open area DAS and access area allocations in addition to the “No Action” alternative (ALT1). Table 5 provides a description of these alternatives.

Table 5. Framework 28 Projections with Alternative Specifications.

Alternatives	Effort and Catch Limits
ALT1 - No Action – Default measures set in Framework 27	34.55 open area DAS, 1 MAAA trip, LAGC IFQ allocation=4.5 mill. lb.
ALT2 - Basic Run – IFQ allocations=5.5% of ACL	30 DAS, LAGC IFQ allocation=5.5 mill. lb.
ALT3 – Basic Run – IFQ Allocations= 5.5% of Projected landings (Same for Basic Run+ ETFA at 30 DAS)	30 DAS, LAGC IFQ allocation=2.6 mill. lb.
ALT4 – Basic Run with Open area F=0.4, IFQ Allocations= 5.5% of Projected landings (Same for Basic Run + ETFA at F=0.4)	27.56 DAS, LAGC IFQ allocation=2.5 mill. lb.
ALT5 (Preferred) – Basic Run with NLS extension + ETFA (F=0.44), IFQ Allocations= 5.5% of projected landings	29.20 DAS, LAGC IFQ allocation=2.4 mill. lb.
ALT6 –ETFA – IFQ Allocations= 5.5% of Projected landings	30 DAS, LAGC IFQ allocation=2.6 mill. lb.
ALT7 –ETFA – IFQ Allocations= 5.5% of ACL	30 DAS, LAGC IFQ allocation=5.5 mill.
SQ - Status Quo scenario	34.55 open area DAS, 3 MAAA trips, LAGC IFQ allocation=4.5 mill.lb.

The estimated revenues and net revenue for the limited access scallop vessels and small business entities under all alternatives to the proposed action are expected to be higher than the No Action alternative and status quo levels in the short-term as well as in the long-term. The

differences in terms of revenue and net revenue per limited access vessel of these specification alternatives are not significantly different than that of the proposed action.

The economic impacts of the status quo (5.5 percent of the ACL) and allocation based on spatial management (5.5 percent of the projected landings) alternatives are different for the LAGC IFQ vessels. The status quo management alternative would provide considerably higher allocations to the LAGC IFQ fleets (i.e., 4.1 million lb (1,860 mt) versus 2.3 million lb (1,043 mt) under the proposed action. Therefore, the status quo management alternative would have positive economic impacts on the LAGC IFQ vessels while the proposed action would have negative impacts in 2017 compared to status quo, as summarized above and analyzed in Section 5.4.4.1 of the Framework 28 document. However, the Council chose not to recommend the status quo because, under the status quo method of allocation, the share of IFQ fishery in total landings would be over 11.4 percent of the total landings, which would be inconsistent with the intent of Amendment 11.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 6, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEAST UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14:

a. Revise paragraphs (i)(1)(viii), (i)(2)(iii)(B), and (i)(2)(vi)(B);

b. Add paragraph (i)(2)(vi)(C); and

c. Revise paragraphs (i)(3)(v)(E) and (i)(4)(i)(G).

The revisions and additions read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(1) * * *

(viii) *Scallop research.* (A) Fail to comply with any of the provisions specified in §648.56.

(B) Fish for scallops in, or possess or land scallops from, the NGOM on a scallop research set-aside compensation trip as described in § 648.56(d).

* * * * *

(2) * * *

(iii) * * *

(B) Fish for, possess, or land more than 50 bu (17.62 hL) of in-shell scallops inside the VMS Demarcation Line on or by a vessel, except as provided in the state waters exemption, as specified in § 648.54.

* * * * *

(vi) * * *

(B) Transit the Closed Area II Rotational Area or the Closed Area II Extension Rotational Area, as defined §648.60(d) and (e), respectively, or the Elephant Trunk Flex Rotational Area, as defined in §648.60(b), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

(C) Fish for, possess, or land scallops in or from the Elephant Trunk Flex Access Area in excess of the vessel's total Elephant Trunk Flex Access Area specific allocation as specified in § 648.59(b)(3)(i)(B)(I)(ii) or the amount permitted to be landed from the Elephant Trunk Flex Access Area as allowed under trip exchanges specified in § 648.59(b)(3)(ii)(A) and (B).

* * * * *

(3) * * *

(v) * * *

(E) Transit the Elephant Trunk Flex Rotational Area, Closed Area II Rotational Area, or the Closed Area II Extension Rotational Area, as defined § 648.60(b), (d), and (e), respectively, unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

(4) * * *

(i) * * *

(G) Fish for, possess, or land more than 40 lb (18.1 kg) of shucked scallops, or 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line, when the vessel is not declared into the IFQ scallop fishery, unless the vessel is fishing in compliance with all of the requirements of the State waters exemption program, specified at § 648.54.

* * * * *

3. In § 648.52, revise paragraph (e) to read as follows:

§ 648.52 Possession and landing limits.

* * * * *

(e) Owners or operators of vessels issued limited access permits are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.6 hl) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

* * * * *

4. In § 648.53:

- a. Revise the section heading, paragraph (a)(3), and the heading of paragraph (a)(6);
- b. Add paragraph (a)(6)(iii); and
- c. Revise paragraphs (a)(8), (b)(3), the heading of paragraph (h), (h)(2) introductory text, and (h)(2)(i).

The additions and revisions read as follows:

§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).

(a) * * *

(3) *Overall ABC/ACL and APL*—(i) *Overall ABC/ACL*. The overall ABC for sea scallop fishery shall be the catch level that has an associated F that has a 75-percent probability of remaining below the F associated with OFL. The overall ACL shall be equal to the ABC for the scallop fishery, minus discards (an estimate of both incidental and discard mortality). The ABC/ACL, after the discards and deductions specified in paragraph (a)(4) of this section are removed, shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as defined in paragraphs (a)(5) and (6) of this section, after the deductions outlined in paragraph (a)(4) of this section.

(ii) *APL*. The APL shall be equal to the combined projected landings by the limited access and LAGC IFQ fleets in both the open area and access areas, after set-asides (RSA and observer) and incidental landings are accounted for, for a given fishing year. Projected scallop landings are calculated by estimating the landings that will come from open and access area effort combined for both limited access and LAGC IFQ fleets. These projected landings shall not exceed the overall ABC/ACL and ACT, as described in paragraph (a) of this section.

* * * * *

(6) *LAGC IFQ fleet sub-ACL, sub-ACT, and annual allocation* * * *

* * * * *

(iii) *LAGC IFQ fleet annual allocation.* The annual allocation for the LAGC IFQ fishery for vessels issued only a LAGC IFQ scallop permit shall be equal to 5 percent of the APL. The annual allocation for the LAGC IFQ fishery for vessels issued both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the APL.

* * * * *

(8) The following catch limits will be effective for the 2017 and 2018 fishing years:

SCALLOP FISHERY CATCH LIMITS

Catch limits	2017 (mt)	2018 (mt) ¹
Overfishing Limit	75,485	69,678
Acceptable Biological Catch/ACL (discards removed)	46,737	43,142
Incidental Catch	23	23
Research Set-Aside (RSA)	567	567
Observer Set-Aside	467	431
ACL for fishery	45,680	42,121
Limited Access ACL	43,167	39,804
LAGC Total ACL	2,512	2,317
LAGC IFQ ACL (5% of ACL)	2,284	2,106
Limited Access with LAGC IFQ ACL (0.5% of ACL)	228	211
Limited Access ACT	38,623	35,614
APL	20,516	¹
Limited Access Projected Landings (94.5% of APL)	19,388	¹
Total IFQ Annual Allocation (5.5% of APL)	1,129	846 ²
LAGC IFQ Annual Allocation (5% of APL)	1,026	769 ²
Limited Access with LAGC IFQ Annual Allocation (0.5% of APL)	103	77 ²

¹The catch limits for the 2018 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2018 that will be based on the

2017 annual scallop surveys. The 2018 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

²As a precautionary measure, the 2018 IFQ annual allocations are set at 75% of the 2017 IFQ Annual Allocations.

(b) * * *

(3) The DAS allocations for limited access scallop vessels for fishing years 2017 and 2018 are as follows:

SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2017	2018 ¹
Full-Time	30.41	21.75
Part-Time	12.16	8.69
Occasional	2.54	1.91

¹The DAS allocations for the 2018 fishing year are subject to change through a future specifications action or framework adjustment. The 2018 DAS allocations are set at 75% of the 2017 allocation as a precautionary measure.

* * * * *

(h) *Annual IFQs** * *

* * * * *

(2) *Calculation of IFQ.* The LAGC IFQ fleet annual allocation as defined in paragraph (a)(6)(iii) of this section, shall be used to determine the IFQ of each vessel issued an IFQ scallop permit. Each fishing year, the Regional Administrator shall provide the owner of a vessel issued

an IFQ scallop permit issued pursuant to § 648.4(a)(2)(ii) with the scallop IFQ for the vessel for the upcoming fishing year.

(i) *IFQ*. The IFQ for an IFQ scallop vessel shall be the vessel's contribution percentage as specified in paragraph (h)(2)(iii) of this section and determined using the steps specified in paragraphs (h)(2)(ii) of this section, multiplied by the LAGC IFQ fleet annual allocation as defined in paragraph (a)(6)(iii) of this section.

* * * * *

5. In § 648.59:

- a. Revise paragraphs (a)(2), (a)(3), (b)(3)(i)(B), and (b)(3)(ii), and (e);
- b. Remove and reserve paragraph (g)(3)(iv); and
- c. Revise paragraph (g)(3)(v).

The additions and revisions read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Area Program requirements.

(a) * * *

(2) *Transiting a Closed Scallop Rotational Area*. No vessel possessing scallops may enter or be in the area(s) specified in this section when those areas are closed, as specified through the specifications or framework adjustment processes defined in § 648.55, unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Elephant Trunk Flex Rotational Area, the Closed Area II Scallop Rotational Area, or the Closed Area II Extension Scallop

Rotational Area, as defined § 648.60(b), (d) and (e), respectively, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(3) *Transiting a Scallop Access Area.* Any sea scallop vessel that has not declared a trip into the Scallop Area Access Program may enter a Scallop Access Area, and possess scallops not caught in the Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2. Any scallop vessel that has declared a trip into the Scallop Area Access Program may not enter or be in another Scallop Access Area on the same trip except such vessel may transit another Scallop Access Area provided its gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Elephant Trunk Flex Rotational Area, Closed Area II Scallop Rotational Area, or the Closed Area II Extension Scallop Rotational Area, as defined in § 648.60(b), (d), and (e), respectively, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(b) * * *

(3) * * *

(i) * * *

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2017 and 2018 fishing years:

(1) *Full-time vessels—(i)*

Rotational Access Area	Possession Limits	2017 Allocation	2018 Allocation (Default)
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Closed Area 2	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	-
Nantucket Lightship		18,000 lb (8,165 kg)	-
Mid-Atlantic		18,000 lb (8,165 kg)	18,000 lb (8,165 kg)
Elephant Trunk Flex		18,000 lb (8,165 kg) ¹	No flex option
Total		72,000 lb (32,660 kg)	18,000 lb (8,165 kg)

¹Elephant Trunk Flex Access Area allocation can be landed from either the Elephant Trunk Flex Access Area or the Mid-Atlantic Access Area, as described in paragraph (B)(1)(ii) of this section.

(ii) *Elephant Trunk Flex Access Area allocations.* Subject to the seasonal restriction specified in § 648.60(b)(2), for the 2017 fishing year only, a full-time vessel may choose to land up to 18,000 lb (8,165 kg) of the Mid-Atlantic Rotational Access Area allocation from the Elephant Trunk Flex Access Area, which shall be known as an *Elephant Trunk Flex Access Area allocation*. For example, Vessel A could take a trip in to the Elephant Trunk Flex Access Area and land 18,000 lb (8,165 kg) from that area on one trip, leaving the vessel with 18,000 lb (8,165 kg) of the Mid-Atlantic Rotational Access Area allocation; or, alternatively, the vessel could take a trip in to the Elephant Trunk Flex Access Area and land 15,000 lb (6,804 kg), leaving the vessel with 21,000 lb (9,525 kg) of Mid-Atlantic Access Area allocation, and, 3,000 lb (1,361 kg) of flex allocation which could be landed from the Elephant Trunk Flex Access Area on another trip.

(iii) For the 2018 fishing year, full-time limited access vessels are allocated 18,000 lb (8,165 kg) in the Mid-Atlantic Access Area only with a trip possession limit of 18,000 lb (8,165 kg).

(2) *Part-time vessels.* (i) For the 2017 fishing year only, a part-time limited access vessel is allocated a total of 28,800 lb (13,064 kg) with a trip possession limit of 14,400 lb per trip

(6,532 kg per trip). Of the 28,800-lb (13,064-kg) allocation, 14,400 lb (6,532 kg) are allocated exclusively to the Mid-Atlantic Access Area. The remaining 14,400 lb (6,532 kg) can be landed either from the Mid-Atlantic Access Area or any one other available access area, (Closed Area 2, Nantucket Lightship, or Elephant Trunk Flex Access Areas). However, if a vessel chooses to land the remaining 14,400 lb (6,532 kg) from the Elephant Trunk Flex Access Area and does not land up to the full allocation on a trip, it may only land the remaining pounds either from the Elephant Trunk Flex Access Areas or the Mid-Atlantic Access Area.

(ii) For the 2018 fishing year, part-time limited access vessels are allocated 14,400 lb (6,532 kg) in the Mid-Atlantic Access Area only with a trip possession limit of 14,400 lb per trip (6,532 kg per trip).

(3) *Occasional vessels.* (i) For the 2017 fishing year only, an occasional limited access vessel is allocated 6,000 lb (2,722 kg) with a trip possession limit at 6,000 lb per trip (2,722 kg per trip). Occasional vessels may harvest 6,000 lb (2,722 kg) allocation from only one available access area (Closed Area 2, Nantucket Lightship, Mid-Atlantic, or Elephant Trunk Flex Access Areas).

(ii) For the 2018 fishing year, occasional limited access vessels are allocated 6,000 lb (2,722 kg) in the Mid-Atlantic Access Area only with a trip possession limit of 6,000 lb per trip (2,722 kg per trip).

(ii) *Limited access vessels' one-for-one area access allocation exchanges.* (A) The owner of a vessel issued a limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another Scallop Access Area. These exchanges may only be made for the amount of the current

trip possession limit, as specified in paragraph (b)(3)(i)(B) of this section. For example, if the access area trip possession limit for full-time vessels is 18,000 lb (8,165 kg), a full-time vessel may exchange no more or less than 18,000 lb (8,165 kg), from one access area for no more or less than 18,000 lb (8,165 kg) allocated to another vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective.

Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A vessel owner may exchange equal allocations up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(B) *Flex allocation exchanges.* In fishing year 2017, each limited access full-time vessel is allocated 18,000 lb (8,165 kg) that may be landed from either the Elephant Trunk Flex Access Area or the Mid-Atlantic Access Area (flex allocation). Such flex allocation may be exchanged in full only for another access area allocation, but only the flex allocation may be landed from

the Elephant Trunk Flex Access Area. For example, if a Vessel A exchanges 18,000 lb (8,165 kg) of flex allocation for 18,000 lb (8,165 kg) of Mid-Atlantic Access Area allocation with Vessel B, Vessel A would no longer be allowed to land allocation from the Elephant Trunk Flex Access Area based on its Mid-Atlantic Access Area allocation, but Vessel B could land up to 36,000 lb (16,330 kg) from the Elephant Trunk Flex Access Area and/or the Mid-Atlantic Access Area, combined.

* * * * *

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas*. Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a specifications action or framework adjustment and pursuant to §648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process.

The access areas open for RSA harvest for fishing years 2017 and 2018 are:

(1) 2017: Mid-Atlantic Access Area

(2) 2018: No access areas

* * * * *

(g) * * *

(3) * * *

(v) The following LAGC IFQ access area allocations will be effective for the 2017 and 2018 fishing years:

Scallop access area	2017	2018 ¹
Mid-Atlantic	697	558
Elephant Trunk Flex	697	0

Nantucket Lightship	836	0
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The LAGC IFQ access area trip allocations for the 2018 fishing year are subject to change through a future specifications action or framework adjustment.

* * * * *

6. In § 648.60, revise paragraph (b) to read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(b) *Elephant Trunk Flex Rotational Area.* (1) The Elephant Trunk Flex Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request).

Point	Latitude	Longitude
ETFA 1	38°50' N	74°20' W.
ETFA 2	38°50' N	73°40' W.
ETFA 3	38°40' N	73°40' W.
ETFA 4	38°40' N	73°50' W.
ETFA 5	38°30' N	73°50' W.
ETFA 6	38°30' N	74°20' W.
ETFA 1	38°50' N	74°20' W.

(2) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Elephant Trunk Flex Rotational Area, defined in paragraph (b)(1) of this section, during the period of July 1 through September 30 of each year the Elephant Trunk Flex Rotational Area is open to scallop vessels, unless transiting pursuant to § 648.59(a).

* * * * *

7. In § 648.62, revise paragraph (b)(1) to read as follows:

§ 648.62 Northern Gulf of Maine (NGOM) Management Program.

* * * * *

(b) * * *

(1) *NGOM annual hard TACs.* The annual hard TAC for the NGOM is 73,371 lb (33,281 kg) for the 2017 fishing year and 95,000 lb (43,091kg) for the 2018 fishing year.

* * * * *

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